

**SUMMARY ANALYSIS OF AMENDED BILL**

Author: Perez, V. Manual, et al. Analyst: Jahna Alvarado Bill Number: AB 1411

Related Bills: See Prior Analysis Telephone: 845-5683 Amended Date: August 15, 2011

Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Enterprise Zone Act/Modify Definitions/Modify The FTB's Reporting Requirements

**SUMMARY**

This bill would modify the Franchise Tax Board's (FTB's) reporting requirements under the Enterprise Zone Act.

**RECOMMENDATION AND SUPPORTING ARGUMENTS**

No position.

**SUMMARY OF AMENDMENTS**

The August 15, 2011, amendments add language that would define the phrase "rural city," modify the FTB's legislative reporting requirements with regard to Geographically Targeted Economic Development Areas (G-TEDAs), and make several technical changes. The August 15, 2011, amendments resolved one of the two technical concerns, and two of the three implementation concerns identified in the prior analysis of this bill.

The "This Bill," "Implementation Considerations," "Technical Considerations," and "Fiscal Impact" sections have been revised as a result of the August 15, 2011, amendments. The "Economic Impact" section is provided for convenience.

This analysis only addresses the provisions of this bill that impact the department's programs and operations.

**Summary of Suggested Amendments**

Amendment 1 would clarify language. Amendment 2 is suggested to provide appropriation language to fund the departmental costs associated with administering this bill.

Board Position:

☐ S      ☐ NA      ☒ NP  
☐ SA      ☐ O      ☐ NAR  
☐ N      ☐ OUA

Asst. Legislative Director

Date

Patrice Gau-Johnson

09/08/11

## **ANALYSIS**

### **THIS BILL**

Under the Government Code, this bill would, for applications for Enterprise Zone (EZ) designation that are submitted on or after January 1, 2012, limit the size of a proposed EZ when the proposed EZ's boundaries overlap the boundaries of one or more existing or expired EZs (previously designated EZs).

If the proposed EZ's boundary overlapped one previously existing EZ, the size of the proposed EZ would be limited to 115 percent of the size of the previously designated EZ.

If the boundary overlap involved more than one previously existing EZ, the size of the proposed EZ would be limited to 115 percent of the size of the largest previously designated EZ.

This bill would expand the FTB's current reporting requirement from EZ tax credits to include all G-TEDA tax credits and other G-TEDA tax incentives, to the extent that information is reasonably available. Additionally, the FTB would be required to design and distribute forms and instructions that would allow for the collection of information on the total amount of capital investments made and the total amount of the sales and use tax credit claimed by a business operating within a G-TEDA. The number of new employees included in the computation of the hiring credit would be eliminated as a required item on forms and instructions.

Under the terms of the bill, the FTB would be required to review both personal and corporate tax returns in the development of the required information and, at minimum, report the total for each G-TEDA tax incentive separately for personal and corporate tax filers.

This bill would require state agencies and departments to: (1) affirmatively support their statutory responsibilities under the Enterprise Zone Act and, within their statutory responsibility, to respond to requests made by and on the behalf of an EZ, and (2) consider how the G-TEDA programs could be integrated into workforce development and training plans and strategies in order to maximize the benefits to workers and businesses.

### **IMPLEMENTATION CONSIDERATION**

The department has identified the following implementation concern. Department staff is available to work with the author's office to resolve this concern and other concerns that may be identified.

This bill uses the undefined phrase, "total amount of capital investments made." It is unclear whether "total amount" would mean tax basis or total fair market value of capital investments made (which may be different if property is acquired in a tax-deferred exchange rather than for cash). The absence of a definition to clarify this phrase could complicate the administration of this bill's reporting requirements.

## TECHNICAL CONSIDERATIONS

The language that would require the FTB to “review returns from personal and corporate tax returns” should be clarified. Amendment 1 is provided to change the phrase to “review tax returns filed by taxpayers claiming G-TEDA tax credits and tax incentives”, which may be less confusing.

## FISCAL IMPACT

Because the bill would limit expanded reporting to the information that is reasonably available, it could be argued that the FTB could continue the current reporting process with no cost to the department.

In order for the FTB to provide the same G-TEDA tax credit and tax incentive detail for Personal Income Tax (PIT) filers as is provided for Corporate Tax filers, staff estimates costs of approximately \$133,000 in fiscal year 2011/2012 to develop, program, and test system changes necessary to implement expanded reporting; and beginning with fiscal year 2012/2013, on-going costs of \$128,000 to continue providing the expanded reports.

Due to the current fiscal environment and the redirection of resources to implement a priority technology infrastructure project, the department would be unable to absorb the costs to implement expanded reporting of the PIT G-TEDA tax credits and incentives. Accordingly, suggested language is provided in Amendment 2 to fund the department’s implementation costs for this bill.

If this bill is enacted without appropriation language, the department could pursue a budget augmentation (“legislative budget change proposal”) through the normal budgetary processes and if necessary, could redirect resources from other revenue producing activities to implement this bill. Redirection of resources could negatively impact existing revenue producing activities.

## **ECONOMIC IMPACT**

The bill’s additional reporting requirements would not impact the state’s income tax revenue or the department’s current programs or practices.

Modifying the Government Code provisions that govern EZ designation could affect the General Fund revenue impact of the program. For example, limiting the size of EZs proposed for designation in the future could affect the number of qualified taxpayers eligible for the various EZ income and franchise tax incentives. Because the effect, if any, would occur in the future and is impractical to predict, we are unable to provide an estimate of the revenue effect.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

## **SUPPORT/OPPOSITION<sup>1</sup>**

Support: None provided.

Opposition: None provided.

## **LEGISLATIVE STAFF CONTACT**

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<sup>1</sup> As reported by the Senate Transportation and Housing Committee Analysis dated June 30, 2011 at [http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab\\_1401-1450/ab\\_1411\\_cfa\\_20110630\\_144756\\_sen\\_comm.html](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1401-1450/ab_1411_cfa_20110630_144756_sen_comm.html) [as of September 7, 2011].

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FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENTS TO  
AB 1411 AS AMENDED AUGUST 15, 2011

AMENDMENT 1

On page 20, strikeout line 5, and insert:

shall review tax returns filed by taxpayers claiming G-TEDA tax credits and tax incentives. The

AMENDMENT 2

On page 20, after line 7, insert:

SEC. 10 The sum of one hundred thirty three thousand dollars (\$133,000) is hereby appropriated to the Franchise Tax Board in augmentation of item 1730-001-0001 of the Governor's Budget, Chapter 33, Statutes of 2011. Implementation of the reporting requirements contained in section 9 of this bill is contingent upon receipt of an appropriation.